IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO.1352 OF 2006

Ajaykumar B. Gupta & ors. .. ..Petitioners

Versus

The State of Maharashtra & ors. .. ..Respondents

Mr.R.T.Lalwani for petitioners

Mrs.U.V.Kejriwal, APP for State

Mrs.Uma S.Patsule for Respondent no.3

CORAM : J.N.PATEL &

SMT. ROSHAN DALVI, JJ.

DATE : 5TH SEPTEMBER, 2006.

P.C.:

1. This petition has been filed by the husband and in-laws of Respondent-wife for seeking directions of this court to quash the criminal proceedings pending in the Court of 9th J.M.F.C. Court, Thane in which the petitioners are being prosecuted for having committed an offence under Section 498A, 406, 506 (II), 323 r/w 34 of

I.P.C. vide Cri. Case No.R/701/2005 which was pursuant to the FIR lodged by respondent-wife with Mira Road Police Station.

2. The learned counsel for the parties submits that their respective clients are personally present in the Court and they have amicably settled the matter and the parties have filed the Consent Terms in the Family Court where their matrimonial disputes were pending. In the said Consent Terms the parties have agreed to obtain divorce by mutual consent and particularly para 5 of the consent terms it has been agreed that "Respondent-wife will co-operate for defusing the Criminal Case u/Sec.498A, which is pending in Thane Court".

3. We have personally verified from the parties to satisfy ourselves and they confirmed having filing those consent terms.

4. The Respondent-wife is not interested in prosecuting the criminal case, which has been initiated on her complaint.

5. The learned counsel for the petitioner submits

that as the offence are non compoundable they are required to approach this Court by invoking its extra ordinary jurisdiction to quash the FIR and criminal proceedings in the light of the decision of the Supreme Court rendered in the cases of **(1) B.S. Joshi vs. State of Haryana - AIR 2003 SC 1386 and (2) Fahimuddin Vs. State of U.P. - AIR 1991 SC 2008 (3)** which are being constantly followed by this court in the cases of **(1) Alam Douglas Grant vs. State of Maharashtra in Cri. W.P. No.1672 of 2002 decided on 20.12.2002 by Division Bench and (2) Order dated 27.3.2001 passed by the learned Single Judge of this Court in Cri.Writ Petition No.366 of 2001**. In view of this we do not find any legal impediment in allowing the Petition. Therefore, we quash the proceeding pending in the Court of 9th J.M.F.C. Thane i.e. Cri. Case No.R/701/2005 in view of the fact that the parties have compromised and the Complainant is not interested in prosecuting the case. The Petition stands disposed of accordingly.

(J.N.Patel, J.)

(Smt. Roshan S.Dalvi,J.)